

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**HON. ELAINE L. CHAO, SECRETARY, §
UNITED STATES DEPARTMENT OF §
LABOR, §
§
Plaintiff, §
§
v. §
§
ALLIED PILOTS ASSOCIATION, §
§
Defendant. §**

**CASE NO. 4-05-CV-338-Y
ECF**

**ALLIED UNION SERVICES' MOTION FOR LEAVE TO BE ADDED TO CASE AS
AMICUS CURIAE (WITH YONA ROZEN AS LOCAL COUNSEL) AND FILE AMICUS
BRIEF WITH DECLARATION, AND BRIEF IN SUPPORT THEREOF**

Pursuant to Civil Local Rule 7.2(b), Allied Union Services requests leave to be added as an *amicus curiae* in this case (with Yona Rozen as local counsel) and file an *amicus* brief and accompanying declaration.

Allied Union Services assists labor unions across the United States in conducting elections by Internet and telephone, as well as supports the telephone representation elections performed under the auspices of the National Mediation Board (“NMB”), an independent federal agency created by the Railway Labor Act to facilitate labor-management relations in the railroad and airline industries. The company’s original voting system and its subsequent editions have been used in approximately 1,300 elections, and have processed approximately 700,000 votes.

Allied Union Services has an interest in the present case, where the Secretary of Labor challenges certain features of the Internet voting system used to conduct an election for the Allied Pilots Association (“APA”). Although Allied Union Services did not participate or assist in the APA

election, and although Allied Union Services's voting system is different from the voting system before the Court, the Court's ruling may have implications for Internet and telephone voting generally and may substantially impact Allied Union Services's ability to continue to provide its voting service to its many union clients for elections regulated by the Labor Management Reporting and Disclosure Act. Moreover, Allied Union Services has developed an expertise in Internet and telephone voting due to the large number of elections in which it has assisted, and respectfully submits that its input may be useful to the Court in reaching a decision.

APA does not oppose this motion, but the Secretary opposes any discussion of issues beyond the particular Internet system used to conduct the election before the Court. The Secretary's opposition misses the point of an *amicus* brief, which is to bring a different perspective to the case than that of the parties. If Allied Union Services merely wanted to discuss the issues the parties were already addressing, there would be little point to participating. But it is critical that, in deciding this case, the Court have information about other voting systems and the ramifications of this case on those systems. The Secretary's brief raises issues that have broad ramifications, such as the purported secrecy problems in being able to link a voter to his or her vote and the issues that arise from the use of third party election administrators. Secretary's Brief in Support of Summary Judgment at 21, 22-23. Moreover, as will likely be apparent from APA's opposition to the Motion for Summary Judgment, the discovery in this case included discussion of the system Allied Union Services uses to assist in elections. There can be no question that Allied Union Services has a serious interest in, and much to offer, this case.

Accordingly, Allied Union Services requests leave to be added as an *amicus curiae* in this case, and to file an *amicus* brief and declaration, which are attached as Exhibits A and B respectively.

Respectfully submitted,

/s/ Yona Rozen
YONA ROZEN (State Bar No. 17358500)
Gillespie, Rozen, Watsky,
Motley & Jones, PC
3402 Oak Grove Ave. Suite 200
Dallas, Texas, 75204
Phone: (214) 720-2009
Fax: (214) 720-2291

JEFFREY B. DEMAIN, *pro hac vice application pending*
(California State Bar No. 126715)
JONATHAN WEISSGLASS, *pro hac vice application pending*
(California State Bar No. 185008)
Altshuler, Berzon, Nussbaum,
Rubin & Demain
177 Post Street, Suite 300
San Francisco, CA 94108
Phone: (415) 421-7151
Fax: (415) 362-8064

CERTIFICATE OF CONFERENCE

The undersigned exchanged e-mails with Steven Hoffman, counsel for Defendant on June 9, 2006, and Mr. Hoffman stated that Defendant does not oppose this motion. The undersigned also spoke over the telephone with Tami Parker, counsel for Plaintiff, on both June 12 and 13, 2006, and Ms. Parker indicated by letter of June 13, 2006, that Plaintiff opposes any briefing of issues beyond the particular Internet system used to conduct the election before the Court.

/s/ Jonathan Weissglass

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2006, I electronically transmitted the foregoing document with the Clerk's Office using the electronic filing system of the Court for filing and transmittal of a Notice of Electronic Filing to the following attorneys who have consented to service by electronic means:

Sanford R. Denison
Baab & Denison, LLP
2777 N. Stemmons Freeway, Suite 1608
Dallas, TX 75207

Edgar N. James
Steven K. Hoffman
David P. Dean
James & Hoffman, P.C.
1107 17th Street, N.W., Suite 510
Washington, D.C. 20036-4704

Tami C. Parker
US Attorney's Office - Fort Worth
Burnett Plaza, Suite 1700
801 Cherry Street, Unit 4
Fort Worth, TX 76102

/s/ Yona Rozen

YONA ROZEN